

# EXHIBIT F

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

ARTURO DeLEON-REYES,

Plaintiff,

-vs-

ERNEST HALVORSEN, et al.,

Defendants.

No. 18 C 1028

Chicago, Illinois

April 24, 2019

9:00 a.m.

TRANSCRIPT OF PROCEEDINGS  
BEFORE THE HONORABLE ANDREA R. WOOD

APPEARANCES:

For Plaintiff Solace: PEOPLE'S LAW OFFICE  
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Chicago, Illinois 60642  
BY: MR. JOHN LADELL STAINTHORP

For Plaintiff DeLeon  
Reyes: LOEVY & LOEVY  
311 North Aberdeen Street  
Chicago, Illinois 60607  
BY: MR. SEAN STARR

For Defendant  
Halvorsen: THE SOTOS LAW FIRM, P.C.  
141 W. Jackson Boulevard  
Chicago, Illinois 60604  
BY: MR. JOSH MICHAEL ENGQUIST

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1 APPEARANCES: (Continued)

2 For Defendant City: ROCK, FUSCO & CONNELLY, LLC  
3 321 North LaSalle Street  
4 Chicago, Illinois 60654  
BY: MS. CATHERINE MACNEIL BARBER

5 For Defendant  
6 Guevara: LEINENWEBER, BARONI & DAFFADA, LLC  
7 120 North LaSalle Street  
Chicago, Illinois 60602  
BY: MR. KEVIN EDWARD ZIBOLSKI

8 For Defendant Cook  
9 County: COOK COUNTY STATE'S ATTORNEY  
50 West Washington  
10 Chicago, Illinois 60602  
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11 For Defendant  
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311 South Wacker Drive  
13 Chicago, Illinois 60606  
BY: MR. PAUL A. MICHALIK

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1 (Proceedings heard in open court:)

2 THE CLERK: 18 CV 1028, DeLeon Reyes versus  
3 Guevara, and 18 CV 2312, Solache versus City of Chicago.

4 MR. STARR: Good morning, your Honor. Sean Starr  
5 on behalf of plaintiff Reyes.

6 MR. STAINTHORP: Good morning, Judge. John  
7 Stainthorp on behalf of plaintiff Solache.

8 MS. BARBER: Good morning, your Honor. Catherine  
9 Barber for the City of Chicago.

10 MR. ENGQUIST: Good morning, your Honor. Josh  
11 Engquist on behalf of Rutherford, Naujokas, Trevino, Biebel,  
12 Harvey, Dickinson, Stankus, Mingey, and Halvorsen.

13 MR. ZIBOLSKI: Good morning, Judge. Kevin Zibolski  
14 on behalf of defendant Guevara.

15 MR. BRENER: Good morning, your Honor. Edward  
16 Brenner on behalf of defendants O'Malley, Brualdi, Varga,  
17 Wehrle, and Cook County.

18 MR. MICHALIK: Paul Michalik on behalf of defendant  
19 Navarro.

20 THE COURT: Good morning. So I've reviewed the  
21 parties' submission in connection with the defense motion for  
22 bifurcation. I did also check in with Magistrate Judge  
23 Harjani on the status of discovery of the case just so that I  
24 would sort of understand where he thinks you are in the  
25 process, though not on any substantive issues.

1 I am going to deny the motion for bifurcation. I  
2 don't think it's necessary under the circumstances of this  
3 case, and my views regarding the matter I think actually are  
4 fairly similar to the ones espoused by my colleague, Judge  
5 Kocoras, in that Gomez opinion that came down recently with  
6 respect to most of the issues.

7 I think at this point I can't make a determination  
8 that the Monell liability is necessarily dependent on the  
9 individual liability. I think there are theories that would  
10 not make that the case, and it's not at all clear to me that  
11 there is a benefit and judicial efficiency to be gained under  
12 these circumstances, unless perhaps if I were inclined to  
13 enter a limited consent, which as I think I indicated before,  
14 I'm not particularly inclined to do under these  
15 circumstances. I think it's a fundamentally different claim  
16 for the plaintiff to attribute a constitutional violation  
17 directly to the City based on the City's policies and  
18 practices as opposed to just individual liability, and that  
19 there should be an opportunity to suss that out and  
20 potentially pursue that judgment and get that judgment for  
21 reasons that I think Judge Kocoras also very succinctly  
22 stated at the conclusion of his opinion, among others.

23 If need be, if the parties prefer I can also put  
24 together a written ruling that provides more details on it,  
25 but I wanted to get the parties the oral ruling that that

1 motion is going to be denied, because I know you're going to  
2 see Judge Harjani I believe next week perhaps, and I expect  
3 that he will be talking to you about scheduling.

4 Now, that said, one thing that I am going to  
5 suggest for consideration in managing discovery, and  
6 ultimately the decision will be Judge Harjani's as the  
7 magistrate judge, is whether it's appropriate to phase  
8 discovery here. If it does appear that the Monell discovery  
9 is slowing things down or bogging things down, it may very  
10 well be appropriate to phase the discovery to focus on the  
11 individual claim and perhaps allow an opportunity where if  
12 the defendants or some portion of the defendants file a  
13 motion for summary judgment or partial summary judgment and  
14 come in and can demonstrate why there is no constitutional  
15 violation, that may be a reason to take that issue up early.  
16 And if they're successful, that may actually provide a reason  
17 for me to revisit the decision on bifurcating the Monell  
18 claim.

19 On the other hand, if it's clear that the  
20 individual claims are going to trial, it would strike me as  
21 extremely inefficient to require that to happen before the  
22 Monell claim is fully developed. So again, it will be up to  
23 Judge Harjani ultimately to decide the most efficient way of  
24 managing discovery, but I did want to be clear that my order  
25 denying the bifurcation would not prevent him from deciding

1 to phase discovery or manage discovery in a way to make sure  
2 that things are still moving forward, notwithstanding the  
3 fact that there may be, you know, this bigger pool of  
4 discovery that's out there.

5 On the Monell claim my hope and expectation is that  
6 the parties will work together to keep that discovery  
7 manageable. My understanding is that a lot of the discovery  
8 that's being sought and that's reflected in the exhibits to  
9 the motions are things that have been sought in similar cases  
10 before and that the parties may already be familiar with in  
11 some way. I would hope you would make use of that experience  
12 to keep the discovery here manageable and to cooperate in the  
13 process, and if you're able to do that, then, you know,  
14 perhaps you can move things along quickly and not have to  
15 have any sort of phasing of discovery at all, just, you know,  
16 appropriate, well-managed discovery.

17 So that's my ruling with respect to the bifurcation  
18 motion. It's denied, and Judge Harjani will have the ability  
19 to phase discovery if he views it appropriate to do so. And  
20 any of the individual defendants or the City, if you're in a  
21 position where you think you have a motion for summary  
22 judgment or partial summary judgment to tee up, you can tee  
23 it up. I set dispositive motion deadlines, you know, for  
24 after the close of all discovery. That's the latest you can  
25 file. If you're ready to file and there really is no

1     disputed issue of fact, file it earlier, and you may very  
2     well succeed in narrowing the issues or getting your  
3     individual clients or some of them out of the case at an  
4     earlier stage.

5             I know you're going to see Judge Harjani for  
6     discovery. Is there any possibility of settlement here?

7             MR. STARR: Not at this juncture, your Honor.

8             THE COURT: Okay. Defense counsel agree with that  
9     assessment?

10            MR. ENGQUIST: Yes, your Honor.

11            THE COURT: I think the referral to Judge Harjani  
12     also would include settlement as well, I believe.

13            MR. ENGQUIST: Probably, your Honor.

14            MR. STARR: Yes. I'm not a hundred percent sure,  
15     but I assume so.

16            THE COURT: That is my usual approach.

17            MS. BARBER: I believe he brought that up at the  
18     first status with him, so I think that's something he's  
19     looking at.

20            THE COURT: So I'm going to set about a 90-day  
21     status here. My understanding is that he's going to be  
22     discussing scheduling with the parties when he sees you next,  
23     and I probably will see a scheduling order with some  
24     different dates, and I may adjust my status based on what I  
25     see. But for now, I'm going to set about a 90-day date for



1 my purposes to see the parties again.

2 THE CLERK: July 25th, 9:00 a.m.

3 MR. STAINTHORP: There is another issue I would  
4 like to raise.

5 THE COURT: Okay.

6 MR. STAINTHORP: That is we had filed a motion to  
7 appoint a special representative, which you had granted, for  
8 two deceased defendants. You required us to file an  
9 affidavit with respect to our research in terms of open  
10 estates and contact with the survivors of the deceased  
11 defendants. So we had filed the affidavit about a couple  
12 weeks ago, maybe three weeks ago.

13 I just want to be clear now that we do have  
14 permission to file an amended complaint which substitutes the  
15 special representatives for the deceased defendants, is that  
16 correct?

17 THE COURT: Is the only difference here going to be  
18 the substitution of the plaintiff?

19 MR. STAINTHORP: Well, of the defendants.

20 THE COURT: Of the defendants. Sorry.

21 MR. STAINTHORP: So for two persons who are  
22 deceased. Yes.

23 THE COURT: Is there any objection?

24 MR. ENGQUIST: Your Honor, I'm not sure who is  
25 being appointed as special representative.

1 THE COURT: I believe the proposal that was made  
2 had -- was it the Clerk -- who was proposed?

3 MR. STAINTHORP: Yes, I think the City, the Clerk.

4 MR. ENGQUIST: Then your Honor, I believe the City  
5 would have an objection to have the Clerk named as a special  
6 representative for deceased officers. I know we had that as  
7 another issue that popped up in a different case in front of  
8 a different judge, Judge Gettleman.

9 MR. STAINTHORP: No, no, no. We're not  
10 relitigating. This has been --

11 MR. ENGQUIST: No, I'm just -- that was just --

12 THE COURT: Let's not argue here. I don't  
13 recall -- the affidavit I believe is sufficient to establish  
14 you did your homework, and I don't expect to have somebody  
15 show up on behalf of the estate. Off the top of my head I  
16 don't recall who was being proposed, but my recollection was  
17 that it wasn't sort of an individual or private attorney,  
18 that it was somebody associated with a public office, and  
19 there were reasons given for that.

20 Here's what I'm going to do. I'll make this easy  
21 enough so that we can all refresh our recollections as to who  
22 is being proposed. I'm going to ask -- based on the  
23 affidavit that was filed, I'm going to give the other parties  
24 a week to lodge any objection to proceeding with an amended  
25 complaint that names the special representative that was

1 proposed in the original motion. And if there is an  
2 objection, then I'll rule on it.

3 If there is an objection, my expectation is that  
4 whoever is objecting would explain who you think would be a  
5 more appropriate representative as well. And it doesn't need  
6 to be a specific person per se, but if the concern is that  
7 it's an official capacity person and you think it should be  
8 somebody else, whether it's, you know -- if you have a  
9 suggestion then you can certainly proceed with that. I don't  
10 know if there are any other cases involving these deceased  
11 defendants where they've had to have someone named.

12 MR. STARR: Okay.

13 THE COURT: I would think it would be the same  
14 person.

15 MR. STAINTHORP: I'm not aware of any, Judge. And  
16 just to be clear, when we had filed the motion, we said they  
17 can name a special representative. We don't care. I think  
18 it's appropriate to be the City, but if they want to name  
19 someone else, go ahead. We just want to be able to proceed  
20 against a special representative.

21 MR. ENGQUIST: My confusion on that last part, your  
22 Honor, was just that when your last order came down I was  
23 contacted and they said, well, can you reach out to the  
24 widows, do you know who the widows are. And I was in contact  
25 with one of the family members for one of the families, for

1 Cappitelli. For the other ones I had had no contact with and  
2 I didn't have any way to contact them. So that's why it  
3 threw me off by saying, oh, so have the City do it, because  
4 we've already reached out to the widow on their behest. We  
5 can deal with that I guess within a week.

6 THE COURT: What I really need to know is if your  
7 concern is that the proposed representative is not  
8 appropriate, let me know what steps you're taking. I do  
9 think in the first instance if there is somebody associated  
10 with the family that is going to step into that role, whether  
11 it's counsel or an actual family member, certainly they  
12 should have the opportunity to do so.

13 The point is to have a special representative  
14 appointed. If the objection is to it being an official, but  
15 you haven't yet been able to determine the appropriate  
16 alternative person within a week, you can state that in your  
17 filing, and then we'll get an order in place and try to get a  
18 time frame for that to happen.

19 MR. STAINTHORP: Okay. Just to be clear, I'm ready  
20 now, today, to file an amended complaint just naming the  
21 special representative, but my understanding is you want me  
22 to wait.

23 THE COURT: I'll give you a week at least to get  
24 the right person in place. I don't think it affects any  
25 issues with the timeliness of anything, it shouldn't be

1 impacting the course of discovery since the special  
2 representative is obviously not going to be deposed or  
3 probably not producing any documents. Proper parties I think  
4 were named with the substitution and everything has been done  
5 in a timely manner so it shouldn't affect any statute of  
6 limitations issues.

7 I think you're right to want to get it on file as  
8 quickly as possible, but given where you are in discovery and  
9 where we are in the course of the case I think it makes sense  
10 to allow some additional time to get the right person in  
11 place. Okay?

12 So seven days, which is May 1st, for -- I won't  
13 even call it an objection. Just a response, a -- what should  
14 we call it? We'll call it an objection, by any party with  
15 respect to the proposed special representative from the  
16 original motion. And again, I believe the affidavit  
17 satisfied the concerns for my ruling, so I think the  
18 appropriate issue is just who is going to be appointed.  
19 Okay?

20 Did we get a status date, Enjoli?

21 THE CLERK: July 25, 9:00 a.m.

22 THE COURT: Any other issues for today?

23 MS. BARBER: No, your Honor.

24 MR. STAINTHORP: Not from plaintiff.

25 MR. ZIBOLSKI: No, your Honor.

MR. ENGQUIST: No.

THE COURT: Thank you.

(End of proceedings.)

C E R T I F I C A T E

I certify that the foregoing is a correct transcript  
from the record of proceedings in the above-entitled case on  
April 24, 2019.

/s/Colette M. Kuemmeth  
Court Reporter